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Department of Labor
Records Management Program

Records Management Inspection Report

National Archives and Records Administration
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DEPARTMENT OF LABOR
RECORDS MANAGEMENT PROGRAM

INSPECTION REPORT

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INTRODUCTION

The National Archives and Records Administration (NARA) is responsible for assessing the proper management of records in all media within Federal agencies to protect rights, assure government accountability, and preserve and make available records of enduring value.[1] In this capacity, and based on authority granted by 44 United States Code (U.S.C.) 2904(c)(7) and 2906, NARA conducted an inspection of the Department of Labor (DOL) departmental records management program.

The purpose of this inspection was to examine how well the DOL records management (RM) program and DOL agency and office RM programs communicate and cooperate in order to develop and implement effective records management throughout the Department in compliance with Federal records management statutes and regulations. In addition, this inspection included other foundational aspects of the departmental records management program including, but not limited to, directives, training, program evaluations, electronic records, and email.

This inspection took a critical look at RM standards, policies, procedures, and practices at the Department level and their impact on agencies and offices. It also examined the controls the Department has implemented to mitigate risks associated with non-compliant handling of records and information and to ensure that Department policies and procedures are effectively implemented. The DOL agencies and offices were not the focus of this inspection and are included here only to the extent that they intersect with, and to some degree, rely upon the departmental program to be effective.

OVERVIEW OF THE DOL RECORDS MANAGEMENT PROGRAM

The DOL departmental records management program is staffed by one full-time person who serves as the Departmental Records Officer (DRO), and one part-time RM support person. While the Department records management program does not have a large full-time staff, the DRO effectively leverages the support of 30 RM staff members in 24 agencies and offices to carry out required RM functions and duties. The DRO is located within the Business Operations Center (BOC), which is a component of the Office of the Assistant Secretary for Administration and Management (OASAM). The DOL RM program receives support from the Senior Agency Official for Records Management (SAORM), who is also the Assistant Secretary for Administration and Management.

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[1] 44 U.S.C. Chapter 29, https://www.archives.gov/about/laws/records-management.html.

The DOL records management program is centralized with the DRO providing policy guidance and procedural support to 24 agency and office records management programs. The DRO receives strong support from the DOL SAORM and has excellent lines of communication with agencies and offices throughout DOL. There is also a close organizational relationship between the DRO and the Office of the Chief Information Officer (OCIO), which can be leveraged to meet the electronic records requirements of the Office of Management and Budget (OMB) and NARA Directive M-12-18.[2]

While most aspects of the DOL records management program are sound, the program has some areas of weakness that put it at risk for non-compliance with various elements of 36 Code of Federal Regulations (CFR) Chapter XII, Subchapter B. Failure to manage records in a compliant manner increases the risk that records will not be readily accessible for normal business operations, for program development, and for accountability to Congress and the public. It also increases the risk of loss of Federal data and records and that permanent records may not be retained for eventual transfer to the National Archives, as required by 44 U.S.C. 3101. To help mitigate risks associated with non-compliance, this report makes 5 findings and 6 recommendations. Follow-up actions required for DOL and NARA are included in Appendix C.

FINDINGS AND RECOMMENDATIONS

PROGRAM IMPLEMENTATION

Finding 1: The DOL Strategic Records Management Plan (SRMP) needs to be approved and implemented to improve coordination and collaboration among its agencies and offices.

Under the leadership of OASAM, the DOL developed a SRMP in 2013-2014. The plan had five strategic goals and provided a roadmap for RM activities in the Department from 2014 to 2020. These goals included improved training, the proper disposition of records in paper and electronic formats, the transition to electronic recordkeeping, and the implementation of a Department-wide information governance framework. The SRMP was to be updated at least annually to address significant programmatic changes.

To achieve the goals of the SRMP, DOL established working groups with representation from every agency and office. These working groups were instrumental in the development of the SRMP and the achievement of early initiatives such as preparation of Capstone schedules for email and the inventory of electronic information systems.

Due to budget constraints, the initial successes of the working groups were not followed by the

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[2] OMB/NARA *Managing Government Records Directive* (M-12-18), https://www.archives.gov/files/records-mgmt/m-12-18.pdf.

approval and implementation of the SRMP. As a result important initiatives such as the creation of an information governance board and the development of electronic records management systems (ERMS) are not being pursued by the Department.

The formal approval and implementation of the SRMP would allow DOL to continue work such as resolving concerns about the feasibility of an ERMS, managing permanent electronic records, and creating an information governance framework. Reactivation of the plan would also strengthen the ability of the DRO to identify and prioritize goals and objectives needed to improve agency and office records management programs as well as help integrate RM programmatic needs into the departmental Information Resources Management (IRM) strategic plan.

Recommendation 1: The SAORM and the DRO, in coordination with DOL agencies and offices, must update and formally issue the SRMP as well as institute, by policy or procedure, a periodic review of the SRMP. (44 U.S.C. 3506 and OMB Circular A-130)[3]

Finding 2: The DOL RM program does not conduct regular comprehensive records management evaluations.

36 CFR 1220.34(j) requires agencies to conduct formal evaluations to measure the effectiveness of their records management program and practices to ensure they meet NARA regulations. DOL enumerates these responsibilities in the Department of Labor Management Series (DLMS) 1 Chapter 410, which states that the DRO is to "perform periodic reviews and office visits for the effectiveness and efficiency of the Departmental and Agency Records Management Program." The Agency Records Officers (ARO) are to perform the same reviews for their own programs.

The DRO does not conduct formal evaluations of agencies and offices in the DOL. The DRO does validate agency responses to NARA's Records Management Self-Assessment (RMSA), but does not use this data in wider program evaluations. Most DOL agencies do not conduct regular RM evaluations at all or conduct them only on a limited and informal basis. Only two agencies indicated they were conducting RM audits as part of a broader accountability or review process. A few others discussed their intentions to conduct evaluations in the future.

The situation remains essentially unchanged since 2008 when the DOL Office of Inspector General (OIG) noted the lack of formal evaluations in an audit of the Departmental RM program. At that time the Deputy Assistant Secretary for Operations agreed to undertake periodic evaluations and provide written summaries of each evaluation beginning in Fiscal Year (FY)

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[3] https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/OMB/circulars/a130/a130revised.pdf. As part of the Paperwork Reduction Act (PRA) of 1995, OMB requires agencies to develop and maintain an ongoing process to manage information resources which includes "goals for improving information resources management's contribution to program productivity, efficiency, and effectiveness, methods for measuring progress towards those goals, and clear roles and responsibilities for achieving those goals" (44 U.S.C 3506(b)(3)(C)). In addition to the PRA, the recent issuance of new guidance in OMB Circular A-130, *Managing Information as a Strategic Resource*, places greater emphasis than previously on records management (OMB Circular A-130(5)(h)).

2009. Written summaries with detailed plans of action are essential to strengthening the overall RM program.

Recommendation 2: The DRO and AROs must establish and implement a formal records management evaluation program to ensure all records are managed in accordance with 36 CFR Chapter XII, Subchapter B. (36 CFR 1220.34(j))

Finding 3: DOL Department-wide mandatory RM training is incomplete and does not include content specific to the practices and policies of the Department or individual agencies and offices.

DOL provides mandatory Department-wide RM training to all Federal employees and contractors, training almost 17,000 DOL employees in FY 2016. DOL has a *New Employee Briefing* and an annual RM review course titled *Records and Information Management for Everyone.* This course meets the basic training requirements codified in 36 CFR 1220.34(f). However, it is missing elements that cause it to not fully comply with 36 CFR 1224.10(e), which requires agencies to "provide training and guidance to all employees on agency records disposition requirements and procedures and other significant aspects of their records disposition program." Some important RM concepts missing from the current version of the annual *Records and Information Management for Everyone* course include the records lifecycle, legal holds, and information about procedures in the event of the loss or destruction of records. Departmental level training needs to be enhanced to ensure that all staff understand what is expected of them in relation to the records they create, receive, access, and use.

Many DOL agencies and offices rely solely on Departmental-level training for staff rather than providing training tailored to their missions and business processes. DLMS 1 Chapter 410 states that AROs will ensure that personnel "receive records management training appropriate to their needs." DLMS 1 Chapter 421 also states that "agencies will provide guidance on where records should be maintained to include storage, access, and application of disposition instructions of assigned records." Since staff are required to execute additional RM activities to fulfill their duties, DOL agencies and offices need to develop RM training tailored to their needs. This training must include comprehensive information and instructions for the implementation of agency and office RM policies and procedures.

NARA feels that the language of the pertinent sections of DLMS 1-400 can be strengthened to ensure that agencies and offices provide training content specific to "significant aspects of their records disposition programs." (36 CFR 1224.10(e))

To assist agencies with training requirements, NARA recently provided expanded guidance in NARA Bulletin 2017-01, *Agency Records Management Training Requirements*.[4]

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[4] NARA Bulletin 2017-01, November 29, 2016, https://www.archives.gov/records-mgmt/bulletins/2017/2017-01-html.

NARA notes the DRO intends to study the implementation of tiered training in the Department, recognizing that not everyone needs the same level of records management training. NARA agrees with and supports this initiative.

Recommendation 3.1: The DRO must update Department-level training to ensure its adequacy and that it meets the requirements of 36 CFR 1224.10(e).

Recommendation 3.2: OASAM and the DOL DRO must update Department policy and provide the necessary guidance to support the development of customized RM training that reflects the unique records management practices and policies of DOL agencies and offices. (36 CFR 1224.10(e) and NARA Bulletin 2017-01)

Finding 4: DOL lacks coordinated processes and procedures to track litigation holds.

DLMS 1 Chapter 446 states that DOL agencies must establish procedures to ensure the preservation and retention of records relating to investigations and litigation holds. However, many agencies and offices interviewed expressed concerns about the current notification and tracking methods for legal holds. There is an apparent lack of coordination between the offices and the Office of the Solicitor (SOL) in setting and lifting holds. This lack of coordination increases risks that legal holds are not being lifted in a timely manner and that records are not being retained according to approved records schedules.

The Department has sought to improve communications and training around the subject of legal holds, and interviews with both OASAM and SOL indicated that some progress is being made in this area. However, no new Department-wide procedures have been developed to date. SOL is developing a tracking system, but it is not ready for implementation on a Department-wide basis because of issues related to Personally Identifiable Information (PII) and the Freedom of Information Act (FOIA).

Recommendation 4: OASAM and SOL should coordinate to update and implement Department-wide policies and procedures for legal holds. (36 CFR 1226.18)

ELECTRONIC RECORDS MANAGEMENT

Finding 5: The DOL is at risk of not meeting target 1.1 of the OMB/NARA *Managing Government Records Directive* (M-12-18), which calls for the management of all permanent electronic records in an electronic format.

Many DOL agencies are not currently in position to meet the 2019 goal of M-12-18, target 1.1, which requires Federal agencies to manage all permanent electronic records in an electronic format. Some DOL agencies and offices have begun to exploit records management functionality in Microsoft SharePoint in order to manage unstructured data, but this is not a widespread practice throughout DOL.

DOL has no action plan for how the Department will meet target 1.1 of M-12-18. DOL's SRMP called for "redesigning agency business processes to include steps for digitizing permanent records..., modifying legacy electronic information systems (EIS) to incorporate [electronic records management] ERM capabilities, and planning and implementing new ERM solutions." However, DOL has decided not to pursue this part of the SRMP. DOL has yet to articulate an alternative approach to ensuring that permanent records created electronically are managed electronically according to requirements enumerated in the 36 CFR 1236 Subpart B.

DOL has successfully utilized working groups to plan and implement other requirements in M-12-18 and indicated that these or similar groups will now be used to build on that success in planning for and meeting target 1.1.

Recommendation 5: DOL must develop and implement a plan that will guide its agencies in meeting target 1.1 of M-12-18.

OTHER OBSERVATIONS

COMMUNICATION AND COLLABORATION

The DOL DRO communicates and collaborates well with agency and office records officers.

The DOL DRO works closely with every agency and office within the Department to achieve program goals and requirements. She coordinates with each agency and office to ensure that Department initiatives are carried out in a timely manner. She hosts monthly and ad hoc RM working groups to coordinate activities on Departmental initiatives such as the submission of Capstone schedules and electronic systems inventories. She also provides "hands on" assistance to the agencies and offices and answers questions about training, policies and procedures, and other RM related topics.

SENIOR LEADERSHIP SUPPORT

The DOL RM program receives strong support from senior leadership.

DOL has an active and engaged Department-level SAORM who maintains an effective working relationship with the DRO. Even with the departure of one departmental SAORM and the appointment of another, there was no break in support for the DOL RM program. The current DOL SAORM is active in RM matters and is available to assist with policy and procedure matters as needed. The SAORM also fosters a high level of coordination between OASAM, BOC, and OCIO on RM issues.

In addition to the DOL SAORM, DOL agencies have appointed senior-level staff in each of their

respective agencies to improve the visibility and accountability for RM. These staff members are usually high graded General Schedule (GS) employees or Senior Executive Service (SES) appointees who serve as RM liaisons and champions for their agencies and offices. This has improved the visibility and accountability for RM and has engendered a spirit of coordination and cooperation at high levels of the Department.

<u>INTEGRATION OF RM INTO INFORMATION TECHNOLOGY (IT) PROCESSES</u>

DOL integrates RM into information technology processes.

Under the current organization of OASAM, both the OCIO and BOC work collaboratively on IT projects. The DOL SAORM encourages a close relationship between the OCIO and RM operations. The OCIO has ensured a high level of cooperation through the development of a Systems Development Life Cycle Management (SDLCM) manual that incorporates RM requirements into IT project planning and management. The SDLCM includes the Capital Planning and Investment Control (CPIC) process, the Security Life Cycle phases, and the Strategic Business Management life cycle phases. Planning work is coordinated with RM components in agencies and offices as noted in DLMS 1 Chapter 438, which states that agencies "must incorporate records management and archival functions into the design, development, and implementation of information systems through the coordination and assistance of their Records Officer." The relationship between the OCIO and BOC was further enhanced by their coordinated efforts to implement the Capstone approach for email management as noted below. DOL agencies and offices consistently praised OCIO and IT operations for their participation and interest in RM issues relating to both email and systems development.

<u>EMAIL MANAGEMENT</u>

The DOL enterprise approach to scheduling email is well coordinated.

The close relationship between the Department OCIO and BOC facilitated the adoption of the Capstone approach for email. DOL currently uses a cloud based email system hosted in a common operating environment and managed by the Department OCIO. This system allows DOL employees access to an archiving feature to apply archive and retention policies to individual emails or folders. Two agencies use the same system but have not migrated their email operations to the cloud due to security issues. This unified email system has been helpful in DOL's implementation of the Capstone approach for the management of email. All DOL NA-1005 forms have been submitted to NARA and are awaiting approval. This effort, facilitated by the DRO and fully supported by the SAORM, was coordinated with OCIO, AROs, IT operations, and NARA. The approval of DOL's Capstone schedules will allow the Department to execute the disposition of email records in compliance with M-12-18, target 1.2.

CONCLUSION

DOL has made great progress strengthening its records management program. The Department is very effective at coordinating its activities around such areas as RM training, email scheduling, electronic records inventories, and records disposals. Senior leaders within the Department provide direction and support in many areas of records management. However, an overarching strategic vision of departmental records management is lacking. The DRO should leverage the support of the Department SAORM and the senior leaders in the agencies and offices to develop a strategic plan that will further strengthen records management across the Department, contribute to the Department's overall mission, and enhance the effective management and preservation of the Department's records.

APPENDIX A
INSPECTION PROCESS

OBJECTIVE AND SCOPE

The objective of this inspection was to determine if DOL implements standards, policies, procedures, and other records management coordination practices to ensure that the Department and its component agencies have effective records management programs.

METHODOLOGY

NARA carried out this inspection by conducting interviews at DOL Headquarters with most of the DOL agencies and offices and by reviewing DOL program documentation. More specifically, the inspection team:

- reviewed records management policies, directives, and other documentation provided by DOL and its component agencies;
- interviewed RM representatives from the departmental records management program and from eight agencies and seven offices;
- guided the course of the inspection using a detailed checklist of questions based on Federal statutes, Federal regulations, and NARA guidance;
- reviewed DOL and component agencies' responses to current and past annual Records Management Self-Assessments (RMSA) and current and past reports of Senior Agency Official for Records Management (SAORM); and
- reviewed DOL and component agencies' responses to Federal Email Management Reporting for 2016.

OFFICES INTERVIEWED

DOL Headquarters, Washington, DC, February 14-16, 2017.

- Administrative Review Board, Benefits Review Board, and Employees' Compensation Appeals Board (The Boards)
- Bureau of Labor Statistics (BLS)
- Employee Benefits Security Administration (EBSA)
- Employment and Training Administration (ETA)
- Mine Safety and Health Administration (MSHA)
- Occupational Safety and Health Administration (OSHA)
- Office of the Assistant Secretary for Administration and Management (OASAM)
- Office of Federal Contract Compliance Programs (OFCCP)
- Office of Inspector General
- Office of Labor-Management Standards (OLMS)
- Office of Public Affairs (OPA)

- Office of the Chief Information Officer (OCIO)
- Office of the Solicitor (SOL)
- Office of Workers' Compensation Programs (OWCP)
- Wage and Hour Division (WHD)
- Women's Bureau (WB)

APPENDIX B
RELEVANT INSPECTION DOCUMENTATION

"2016 Records and Information Management for Everyone Training Course," Department of Labor, 2016.

"DLMS 1 Chapter 400 - Records Management Program," Department of Labor, August 8, 2014.

"New Employee Briefing," Department of Labor, October 3, 2016.

"Strategic Records Management Plan," Department of Labor, May 2014.

"The Department of Labor's Records Management Program Controls Need Strengthening," Department of Labor Office of Inspector General - Office of Audit, September 15, 2008.

APPENDIX C

AUTHORITIES AND FOLLOW-UP ACTIONS

AUTHORITIES

- 44 U.S.C. Chapter 29
- 36 CFR Chapter XII, Subchapter B
- 36 CFR 1239, Program Assistance and Inspections

OTHER GUIDANCE

- OMB/NARA *Managing Government Records Directive* (M-12-18)
- OMB/NARA *Guidance on Managing Email* (M-14-16)
- Other NARA Bulletins currently in effect

STATUTES AND REGULATIONS

36 CFR Chapter XII, Subchapter B, specifies policies for Federal agencies' records management programs relating to proper records creation and maintenance, adequate documentation, and records disposition. The regulations in this Subchapter implement the provisions of 44 U.S.C. Chapters 21, 29, 31, and 33. NARA provides additional policy and guidance to agencies at its records management website: http://www.archives.gov/records-mgmt/.

At a high level, agency heads are responsible for ensuring several things, including:

- The adequate and proper documentation of agency activities (44 U.S.C. 3101);
- A program of management to ensure effective controls over the creation, maintenance, and use of records in the conduct of their current business (44 U.S.C. 3102(1)); and
- Compliance with the Federal Records Act and guidance and regulations issued by NARA (44 U.S.C. 3102(2) and (3)).

FOLLOW-UP ACTIONS

DOL must submit to NARA a Plan of Corrective Action (PoCA) that specifies how the agency will address each inspection report recommendation, including a timeline for completion and proposed progress reporting dates. The plan must be submitted within 60 days after the date of transmittal of the final report to the head of the agency.

NARA will analyze the adequacy of DOL's action plan, provide comments to DOL on the plan within 60 calendar days of receipt, and assist DOL in implementing recommendations.

DOL will submit to NARA progress reports on the implementation of the action plan until all actions are completed. NARA will inform DOL when progress reports are no longer needed.

APPENDIX D

ACRONYMS AND ABBREVIATIONS

ARO	Agency Records Officer
BOC	Business Operations Center
CFR	Code of Federal Regulations
CPIC	Capital Planning and Investment Control
DLMS	Department of Labor Management Series
DOL	Department of Labor
DRO	Department Records Officer
EIS	Electronic Information System
ERM	Electronic Records Management
ERMS	Electronic Records Management System
FOIA	Freedom of Information Act
FY	Fiscal Year
GS	General Schedule
IRM	Information Resources Management
IT	Information Technology
NARA	National Archives and Records Administration
OASAM	Office of the Assistant Secretary for Administration and Management
OCIO	Office of the Chief Information Officer
OIG	Office of Inspector General
OMB	Office of Management and Budget
PII	Personally Identifiable Information
PoCA	Plan of Corrective Action
PRA	Paperwork Reduction Act
RM	Records Management
RMSA	Records Management Self-Assessment
SAORM	Senior Agency Official for Records Management
SDLCM	Systems Development Life Cycle Management
SES	Senior Executive Service
SOL	Office of the Solicitor
SRMP	Strategic Records Management Plan
U.S.C.	United States Code